IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.4458 OF 2007
IN
APPEAL NO.911 OF 2003
IN
SHOW CAUSE NOTICE NO.222 OF 2002
IN
CONTEMPT PETITION NO.94 OF 2002
IN
WRIT PETITION NO.2600 OF 2001

Lydia Co-op Housing Society & Anr. .. **Appellant**s
V/s
Dayabhai Shambhu Gala & Ors. .. Respondents

Mr.T.G.Vora i/by Mr.Bharat Joshi for the Appellants.
Mr.A.L.Patki for Respondent Nos.1 to 3.

CORAM : DR.S.RADHAKRISHNAN, &
ANOOP V.MOHTA, JJ.

DATE : 5th December, 2007.

P.C.:

1. Heard the learned Counsel for the parties. By this Notice of Motion, the Appellants are seeking to recall the order dated 28.11.2007 whereby the Appeal was dismissed in default. Perused the affidavit in support of the Notice of Motion. For the reasons stated therein, sufficient cause is made out for recalling of the order dated 28.11.2007. There is no case of inaction, negligence or want of bonafide on the part of the Appellants. Hence the Notice of Motion is made absolute in terms of prayer clause (a).

2. Place the Appeal No.911/2003 on board for final hearing on 14.01.2008.

3. Office is directed to immediately call for the Record and Proceedings from the Co-operative Court No.II, Ballard Pier, Mumbai with regard to the CC-II/152/01.

(ANOOP V.MOHTA, J.) **(DR.S.RADHAKRISHNAN, J.)**